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ABSTRACT

Due to Alaska's unique culture, geography and history there are various State and Federal laws affecting the education of Alaskan children, especially Native children. Under these laws, several kinds of school systems operate for rural Alaska communities--Bureau of Indian Affairs, Regional Education Attendance Areas, city and borough districts, denominational schools, community (tribally) controlled private, and boarding programs. There are laws for funding special programs (i.e., bilingual education, reading improvement, free lunches) and laws which specifically aid Indian and Native education (i.e., the Indian Education Act, Indian Self-Determination and Education Assistance Act, Johnson-O'Malley Act). Because many of the laws are new and many people who will be on boards and committees are new to their jobs, some basic information on legal matters is needed. Prepared with advice and suggestions from parents and community leaders in rural areas and from professional educators, this booklet is designed to help supply a background and understanding of the laws which are important to education in rural Alaska. The two sections provide basic information about the kinds of school systems operating in rural Alaska; give answers to questions about funding programs, student and teacher rights, community control, bilingual education, administration, and legal liability; and provide definitions for often-used terms which appear in italics whenever they are used in the booklet. (NQ)

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A PRIMER ON
LAWS IMPORTANT TO ALASKA NATIVE EDUCATION

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1976

A PRIMER ON

LAWS IMPORTANT TO ALASKA NATIVE EDUCATION

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Fairbanks, Alaska

December, 1976

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Introduction

Because of Alaska's unique culture, geography, and history there is an unusually great number of state and federal laws affecting the education of Alaskan children, especially Native children. Under the laws, several kinds of school systems operate for rural Alaska communities—BIA, borough and city districts, Regional Education Attendance Areas (REAAs), denominational schools, and so on. There are funding laws for dozens of special programs, including bilingual education, reading improvement, and free lunches. Several laws which specifically aid Indian and Native education include the Indian Education Act, Indian Self-Determination and Education Assistance Act, and Johnson O'Malley Act.

The creation of Regional Education Attendance Areas (REAAs) in 1976, decentralizing the state's education system for the unorganized borough under a new law, S.B. 35, means that there will be *hundreds* of residents of rural areas on decision-making school boards and community school committees. In addition, there are boards and community school committees for district schools and members of advisory and policy-making committees for BIA schools and for several federal programs. The people on all these boards and committees—as well as individual parents, persons concerned with education in regional and village corporations, Native organizations, non-profit corporations, and village councils—need to know about the laws that govern education in rural Alaska. Only with this knowledge can they make good decisions and take advantage of the many options open to them. People on decision-making boards *must* have information about the laws under which they operate to carry out their duties well.

Because many of the laws are new and many people who will be on boards and committees are new to their jobs, some basic information on legal matters is needed. This booklet is designed to help supply a background and understanding of the laws which are important to education in rural Alaska.

With advice and suggestions from many parents and community leaders in rural areas as well as from professional educators, this booklet was prepared under the auspices of the Center for Northern Educational Research at the University of Alaska. Its preparation was made possible by a special grant to the Center from the Ford Foundation. It was written by attorney David H. Getches of the Native American Rights Fund, Boulder, Colorado, with the assistance of Joseph J. Bellipani, a third year law student at the University of Colorado. The Alaska Department of Education, by a preprinting purchase order, assured that a sufficient number of copies would be available for broad distribution in rural Alaska. Their assistance is appreciated.

The booklet is divided into two sections. The first section attempts to provide basic information about the kinds of school systems which operate in rural Alaska and gives answers to questions about funding programs, student and teacher rights, and other matters of interest to local decision-makers. The final section contains definitions for often-used terms. Where those terms appear in this booklet they are in *italics* so that the reader knows he can refer to a definition if necessary.

Every effort has been made to assure that the information in this booklet is correct as of the date it was published. But laws change from time to time, and interpretations may prove wrong in light of future court opinions and the way the laws are applied in practice. The purpose is to furnish background information concerning the laws. Thus citations to statutes and court cases and legal language have been avoided as much as possible. Every person called upon to make decisions about local schools should also have a current copy of *Compiled School Laws of Alaska* and *Rules and Regulations of the State Department of Education* which may be obtained from the Department of Education, Pouch F, Juneau, Alaska 99811. Major decisions based on the laws and applications of them to specific facts should be made with the advice of an attorney. No booklet is a subsititute for such assistance. No attempt is made to suggest how a board or a school system should operate or which decisions are best. These are matters which only those involved can and should decide.

It is hoped that this booklet will contribute to the ideal of responsible local decision-making in Alaska rural education.

Frank Darnell, Director
Center for Northern
Educational Research

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Types of Schools in Alaska

Bureau of Indian Affairs (BIA) Schools

In Alaska there are 44 elementary day schools operated by the BIA. In addition there is one high school with boarding facilities at Mt. Edgecumbe. These schools are funded and staffed by the federal government. Enrollment is limited to Native children who live in communities with BIA schools. Children from other communities, such as those having no high school, can attend BIA schools by special arrangement with the state. Some non-Natives attend BIA schools where there are no other facilities and the state reimburses BIA for their education.

Under the Alaska constitution education is the job of the state government. Before statehood most rural schools in Alaska were operated by BIA. Many BIA schools have continued because the state has not had enough money to do the job in every village. Several BIA schools have been turned over to the state or to city and borough school districts when the state or districts have agreed to take over school programs. A 1962 "memorandum of general agreement" between the Bureau and the State of Alaska recognizes an obligation on the part of the BIA to remain until its schools can be replaced adequately.

The long standing policy of the Bureau is to eliminate its education functions as the Native students it serves can be educated in the state system. But BIA believes that it should continue operating a school until a local community wants it to withdraw. A current federal policy of self-determination is also carried out by allowing tribal and village groups to assume control of education programs and functions now under BIA by contracting with them under the *Indian Self-Determination and Education Assistance Act.*

Each BIA school has an *Advisory School Board* which can make suggestions and recommendations to the school staff. How much impact this board has on curriculum, personnel and evaluation of academic standards varies according to the school, its principal and the interest of the community.

Regional Education Attendance Area (REAA) Schools

In June, 1975, a bill was passed by the Alaska Legislature *(Senate Bill 35)* to end the centralized *Alaska State Operated School System* by dividing the state into regional education attendance areas *(REAAs)*, each operating under locally elected boards. As of July, 1976 twenty-one boards took over most of the duties of running schools in their regions.

The greatest single reason for the new act was to give communities more local control.

REAA schools are fully funded by the State of Alaska. They get an amount equal to their "*basic need*" under the state *foundation program*, plus the average amount of local contributions per student of all the borough and city schools in the state. *REAA* schools are controlled by the *REAA* school board elected by the voters of the *REAA*. The board makes contracts, appoints employees, provides an education program for each child, develops a philosophy of education, and prepares periodic reports. Operation of schools is subject to approval of the State *Commissioner of Education*. Each *REAA* school has a *community school committee* that makes recommendations to the board concerning general school operation and may be given additional duties by the board. There is an administrator who is responsible for the daily operation of the school.

City or Borough District Schools

Each borough and each first class city is a school district operated by an elected school board. A borough school board may create *advisory school boards* composed of parents and delegate to them whatever duties it chooses. In third class boroughs a single body may serve both as the borough assembly and the school board. Each district employs an administrator (superintendent) who takes care of the school's daily operations.

City and borough school districts are funded under the *foundation program* in which the state supplies a minimum of 95% of *basic need* (which is not necessarily all of the district's costs), with the remainder of *basic need* supplied by local tax effort. In addition, the district uses funds, from other local, federal, and other state sources. (See description of *foundation program* on p. 3.)

Denominational Schools

These schools are operated by religious organizations and are non-profit educational institutions. The operating costs of denominational schools are met by tuition and funds from other private sources. They receive no direct state funds. Students in denominational schools may be eligible for some programs financed by the federal government. The state requires that private schools meet state educational standards, that its teachers be certified, and that the school register with the *Department of Education* and submit periodic statistical forms.

Community (Tribally) Controlled Private Schools

Although there are now no private community controlled schools in Alaska, there are such schools on Indian reservations in other parts of the United States. These schools may be operated by Native people of a particular community. Funding can come from private sources like foundations and from federal programs like *Johnson O'Malley* and the *Indian Self-Determination and Education Assistance Act.*

Boarding Programs

In the past, the state has used boarding programs to educate large numbers of high school children from areas where no local high school was available and for children with special problems. Two types of programs have been used: the boarding school program where children live in dormitories at the school; the boarding home program where children live with private families and attend public schools. In both programs all expenses of a child's education including transportation, room and board were paid by the state.

State regulations now require *REAAs* and school districts to make available free of charge a boarding program for all children in communities which have no high schools. The *Department of Education* repays the costs of these programs to the *REAA* or district on receiving a proper application. Districts and *REAAs* may also decide to provide supplemental boarding programs for children who have special needs. The local board must decide what needs qualify a child to participate (handicaps, learning disabilities, problems at home, discipline, etc.). Costs for supplemental boarding programs generally are not repaid to the *REAA* or district by the state.

Funding for Alaska Schools

State Funding

1. How Are City and Borough Schools Funded?

Most costs of operating city and borough schools are paid by the state through the *foundation program* (discussed below). Remaining costs are paid from monies raised locally from property tax, sales tax and other sources. As explained in the section on federal funding, city and borough school districts are eligible for funds from a wide range of federal programs.

2. How Does the FOUNDATION PROGRAM Work?

The amount of money a district gets under the foundation program is figured like this:

a. Find the *average daily membership* (ADM) of the school—the total number of children enrolled in the school for each day for a year, divided by the number of school days.

b. Find the number of *instructional units* for the school according to its ADM by looking at a table in the statute. Extra units are provided for special education and vocational education students.

c. Find the *instructional unit allotment* by multiplying the total instructional units in a district by the *base instructional unit* value ($27,500 in 1977-1978) adjusted by a factor in the statute which reflects different costs in different areas of the state.

d. Find the district's *basic need* by multiplying the *instructional unit allotment* by the number of *instructional units*. *Basic need* is only the result of this arithmetic; it is not the actual cost of operating schools.

e. Find the amount of state aid due to the district by determining the *equalized percentage* which is a factor that adjusts the amount of state aid based upon the wealth of the district. Districts with a lower property tax base per student get a greater percentage of *basic need* paid in the form of state aid. For 1976-77 all districts get a minimum of 95% of *basic need*; poorer districts get more.

f. Find the *required local effort*. A district must raise local revenues equal to (or greater than) the difference between *basic need* and the amount of it due from the state under the *foundation program*.

Here is an example: Assume a district with an average tax base is located in election district 6 and has the following schools and *ADMs*:

Elementary School "A" with *ADM* of 45 students
Elementary School "B" with *ADM* of 29 students
High School "C" with *ADM* of 61 students.

The number of *instructional units* for schools of that size according to the statute are:

School A = 4
School B = 3
School C = 5
Total 12

The factor for determining the *instructional unit allotment* in election district 6 is 115% according to the statute. So the *instructional unit allotment is:*

$27,500 (base instructional unit value)
× 115%
$31,625.

Basic need is then determined by multiplying the number of *instructional units* by the *instructional unit allotment:*

$31,625.
× 12
$379,500.

Because the district has an average tax base it gets the minimum 95% of *basic need*, or:

$379,500.
× 95%
$360,525. in state aid under the *foundation program*. The difference between *basic need* and the amount due from the state is the district's *required local effort*. Thus, $379,500 minus $360,525 = $18,975, which is the minimum the district must raise locally. It is free, of course, to raise and use more money for the school program.

3. Does a Richer-Than-Average District Get Less than 95% of BASIC NEED from the State?

No. 95% has been designated for 1976-77 as a floor below which the state's contribution to *basic need* can not fall. Therefore, all districts can count on at least 95% of their *basic need* coming from the state.

4. How are REAA Schools Funded?

REAA schools are totally financed by the State of Alaska; they do not participate in the *foundation program* but the amount of money an *REAA* school receives from the state is calculated in a similar way. The state pays the total amount of *basic need* plus the average local tax contribution per student of all city and borough schools in the state for each student in the *REAA*. *Basic need* is figured just as it would be for the *foundation program*. The current average amount raised locally by all districts is about $575.00 per student.

If we assume that the district used in the example (p. 3) is an *REAA*, the *basic need* is still $379,500. To it is added the average local per student revenue of $575. times the *REAA*'s 135 students or $575 × 135 = $77,625. So the state would pay the *REAA* its basic need of $379,500 plus $77,625 or a total of $457,125.

5. What other State Funding is Provided for Either District or REAA Schools?

The state provides funds in several other ways:

a) *Mini 874*

If a city or borough school (not an *REAA*) provides an education for children whose parents live or work on state property, the district is eligible for *Mini 874* aid. State property is exempt from local property taxes, and *Mini 874* aid helps local school districts make up for money lost to them because of nontaxable state land.

b) Special Programs

Both *REAA* schools and city and borough school districts are allowed additional aid through the *foundation program* for the high cost of providing for *special education* and *vocational education.* These funds are included in the school's calculation of its *basic need*. There must be five or more such students in a school district in order to qualify for these state funds.

c) Transportation Funds

The state pays costs of transportation to and from school (bus, boat, airplane, etc.) for pupils who reside a distance from school. Non-public (denominational) school students may use these transportation facilities if they use the same routes as those established for public school students.

d) *Bilingual Education Programs*

Funds are available from the State *Department of Education* for special bilingual programs to be used under regulations which are being created by the department.

e) Cigarette Tax Program

Funds for school construction and repair are available from tobacco tax revenues. The *commissioner of education* decides whether a school district's request for funds properly falls within the cigarette tax's function to fund "rehabilitation, construction, and repair" of school facilities. The funds are allocated to a district according to the number of students enrolled and the amount of money available.

f) School Construction Aid

The state pays cities and boroughs one half their cash outlays and bond debt repayment costs (principal and interest) for school construction costs made two years earlier. (Three-quarters of such costs are paid for vocational facilities.) Thus, there is a two year delay in getting the money. If a school district uses local tax money and not bonds for construction, the state spreads its payments over 10 years, but pays interest to the district.

g) Other

In addition to the specific programs authorized by statutes, supplemental programs can be funded upon recommendation of the commissioner and upon application by the school district.

6. What Happens to the Method of Funding if an REAA School Becomes a City or Borough School?

If an area now a part of an *REAA* is eligible and chooses to incorporate as a first class city or borough, the school or schools included in it become city or borough schools. Until the end of the fiscal year in which the change occurs, the state will continue to treat the school as an *REAA* school. This means that the school will be totally financed by state funds for that year. In addition, if the new municipality wishes, it may contribute its own funds to aid school programs even though it has no *required local effort* in the first year. After the first fiscal year, the district will receive funds through the school *foundation program* and must raise money to meet its *required local effort*.

7. What are the Advantages and Disadvantages of Creating Municipalities with Educational Functions (City and Borough School Districts) in the Unorganized Borough?

There are many reasons an area might want to be a municipality which are not directly related to education, such as to get planning and zoning powers. But an important advantage of creating municipalities is that it is the way to get the most local control of education decisions. Boards of school districts have more power, especially over money, than *REAA* boards do. Their decisions regarding operation and maintenance of schools are not subject to approval by the commissioner of education but must conform to applicable laws and regulations.

The chief disadvantage of creating a municipality within the unorganized borough lies in its financing. As discussed above, an *REAA* is financed up to *basic need* totally by the State of Alaska plus an amount equal to the average district's per student local contribution for all *REAA* students. While the *required local effort* of city and borough school districts decreases for districts with low tax bases and never is more than the 5% of *basic need*, more money is usually needed to run a school as most districts spend well over their *basic need*. Because *REAAs* are funded according to revenues for the average

district in the state, they get more state aid than districts. Thus, it may not be financially wise to form a district unless there is an available tax base (taxable property, sales, etc.) in the area from which to raise enough funds comfortably to make up the difference between lower state aid under the *foundation program* and what would be paid by the state if the area remained an *REAA*.

Whether the value of increased community control outweighs the increased financial burden on taxpayers is a question each community must answer for itself based upon how much of a tax base it has, and the need for greater community control.

8. Do BIA Schools Receive Any Funds from the State of Alaska?

No, BIA schools are funded completely by the federal government through the Department of the Interior. BIA schools may receive some indirect aid since their students may use public school buses and teachers may participate in equipment and service sharing projects.

Federal Funding

The Johnson O'Malley Act (JOM)

1. What May JOHNSON O'MALLEY Funds Be Used For?

Johnson O'Malley funds are primarily designed to be used for supplemental programs that benefit Native students. Special spending for Native children, such as for courses in Native culture, tutors, field trips, and gym shoes for children who cannot afford them, is proper. In some extreme cases, where basic costs cannot be met in any other manner, these funds may be used for operational expenses. JOM Funds are for Native children and are not tied to schools, so programs outside the school are proper uses.

2. Who Contracts for JOM Funds?

In the recent past the Alaska Federation of Natives (AFN) has contracted with BIA to administer these funds. In turn AFN has contracted with Native associations and non-profit corporations, as well as local education agencies for the operation of programs.

BIA has decided that for 1976-77 it will contract with the 12 non-profit Native corporations. Each will get a sum according to the number of eligible Native students in their region. The corporations will then contract with villages, village profit and non-profit corporations, other Native groups, REAAs, districts and so on, to operate programs. Whatever contracting method is used in later years, the amount of JOM for each Native student must be equalized throughout the state. Thus, while the types of contracts and programs may be different, the per student amount around the state will be about equal.

3. Are BIA Schools Eligible for JOM Contracts?

No. JOM is a federal program to assist Native children not in federal (BIA) schools.

4. How Much Input Do Parents Have in Deciding What Programs Are Funded by JOM?

A JOM *Indian Education Committee* made up of parents has a significant voice. It participates in planning programs, negotiating contracts, and monitoring and evaluating programs which are funded. In fact, no programs are eligible for funding without the consent of the committee.

Indian Self-Determination and Education Assistance Act (Public Law 93-638)

1. What May INDIAN SELF-DETERMINATION (Title I) AND EDUCATION ASSISTANCE ACT (Title II) Funds Be Used For?

Title I of the Act is not just for education. It provides funds for Indian groups (including Alaska Native villages and village and regional corporations and non-profit corporations) to take over planning, administration or operation of BIA and Indian Health Service programs. This can include selected parts of BIA school operation such as building maintenance, instruction, etc., as well as complete running of the school. Grants are available to assist Native groups in improving their ability to run such programs.

Title II of the Act changes the *Johnson O'Malley* Act. It makes clear the Act may only be used to help meet the needs of Native Americans and strengthens the powers of the *Indian Education Committee*. This part of the Act also provides special operational and construction funding for Native takeover of *previously private schools* such as denominational schools. Construction funds are available to states and school districts on or near Native Americans' lands.

2. Who Can Receive Funds Under the INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT?

Other than *Johnson O'Malley* contracts and construction contracts under Title II, states, *REAAs* and school districts generally do not receive aid under the Act. Grants and contracts are available only to Indian (Native) groups, namely villages and village and regional corporations, and Native-controlled organizations. With the approval of the appropriate villages, village corporations, and regional corporations, a Native-controlled *REAA* or school district board could qualify for contracts and grants under the Act.

When a village or village or regional corporation requests the Secretary of Interior to contract with it or another Native corporation to perform BIA services or programs the Secretary must so contract unless he has certain reasons and states them in writing. A grant can then be made under the Act to help the group overcome the Secretary's objections. BIA will assist groups in applying for contracts or grants under the Act.

Impact Aid Funds (P.L. 874)

1. What Are IMPACT AID Funds?

This program provides financial aid to school districts to replace tax monies lost because of tax exempt federal lands in the district. Since federal land cannot be taxed, any school district with a substantial amount of federal property within its boundaries is at a disadvantage in raising property tax revenues for school operation. *Impact aid* (P.L. 874) funds are intended as the federal government's share of local tax contributions. Native lands selected under the Alaska Native Claims Settlement Act (which have not been leased or developed), Indian reservations and military bases all are examples of tax exempt federal lands.

2. How Are P.L. 874 Funds Distributed?

The intent of P.L. 874 payments is to contribute to *local education agencies* funds to make up for the taxes that would be available if there were privately owned taxable property within the school district instead of federal tax-exempt property. Different rates are paid for children whose parents live *or* work on federal tax exempt land and for children whose parents both live *and* work on such lands. More money is paid for children in the second category. City and borough school districts receive funds individually according to the number of federally-related students.

The state administers P.L. 874 for the *REAAs*. The total amount of impact aid for the unorganized borough is put in the state treasury from which payments of support to the *REAAs* are made.

Indian Education Act

1. What Is the Purpose of the INDIAN EDUCATION ACT?

The *Indian Education Act* is designed to provide funds to meet the special educational needs of Indians and Alaska Native students. Part A provides grant funds to local education agencies for pilot programs, planning projects, and equipment. Funds can be used for classes on cultural heritage, counseling, etc. Native groups can get funds under Part B for remedial needs of Native children such as improvement of language skills. Part C is for adult education.

2. Who Can Get Grants Under the INDIAN EDUCATION ACT?

Local education agencies (LEA)—including city and borough districts and *REAAs*—can receive aid under Parts A and C. Additional money is available to *REAAs* as "non-*LEAs*." The law sets aside 10% of the money Congress appropriates for the program for non-*LEAs*, including schools which have been *LEAs* less than three years. Because all *REAAs* began in 1976, they will be eligible for these special non-*LEA* funds until June 30, 1979. Funds under Part B and C are available to Indian organizations

Schools are entitled to funds under Part A according to numbers of Native students they have. A Parent Advisory Committee designs programs for particular schools.

Title I, Elementary and Secondary Education Act (ESEA)

1. What Are TITLE I Funds Available For?

Title I funds can be used by school districts with large numbers of low-income families to provide expanded learning opportunities. Any program which addresses the special needs of educationally disadvantaged children is an appropriate use of *Title I* funds. Examples are tutorial programs, special teaching aids, media centers, and even clothing which the children need but cannot afford. Funds may not be used for anything that is normally supplied as a part of the school program.

2. What Kinds of Schools Can Receive TITLE I Funds?

Districts and *REAAs* are eligible. They must apply to the State *Department of Education* federal programs office which administers *Title I*. The department gets a grant from the federal government based on numbers of eligible students and make grants to particular districts which submit proposed programs to the department. "Target schools" are selected so that funds can be concentrated on limited numbers of eligible students. Thus, not all children who are eligible can participate. Parent advisory councils for each district and each target school are involved in planning, carrying out and evaluating programs, but they have no actual power.

Title I funds also are available to BIA schools out of a special fund of 1% of the total yearly appropriation. The fund goes to the Secretary of the Interior for distribution to the various area offices of BIA, including Juneau. Each BIA school makes its *Title I* request to the Department of the Interior.

Private schools, either denominational or community-controlled, are not eligible for grants under this program. However, students in private schools must be allowed to participate in a *Title I* program if they live within the area served by a public school with such a program.

Other Federal Programs

1. What Are Some Other Federal Programs For Which Schools May Be Eligible?

Besides the programs which have been highlighted above, schools may be eligible for funds for specific purposes from other federal programs.

There are several other titles of the *Elementary and Secondary Education Act (ESEA)*: *Title II*—library resources; *Title III*—guidance counseling and testing; *Title VI*—Aid for Handicapped Children; *Title VII*—*Bilingual Education Act* (training teachers and developing materials to be used in teaching through a

Native language); *Title IX—Ethnic Heritage Studies Program* (the study of students' cultural background).

The federal government also funds *local education agencies* under many other programs, including: *The National Reading Improvement Program* (intensive remedial reading facilities); and *Nutrition Programs* (school lunch, breakfast, and milk provided at free or reduced cost).

2. Should A School Board Attempt to Get Funds From All These Federal Programs?

Perhaps the best approach is, first, consider what programs are available, then see if any of them fit the needs of your school. If so, funds should be sought. It is not wise to go after funds just because they are there unless good use can be made of them. On the other hand, it is important to be aware of what programs there are in order to make full use of resources and furnish the best possible education to school children.

(A chart of funding programs and type of school eligible is on the next page.)

Funding Programs and Type of School Eligible

What Schools are Eligible for These Programs?	BIA	REAA	Type of School: Denominational	Community Controlled	City or Borough
Federal:					
Johnson O'Malley	NO	YES	NO	YES	YES
Indian Self-Determination Act, Title I	NO	NO (unless Native controlled)	NO	YES	NO (unless Native controlled)
Impact Aid, P.L. 874	NO	YES (through the state)	NO	NO	YES
Indian Education Act					
Part A	NO	YES	NO	YES	YES
Part B	YES	YES	NO	YES	YES
ESEA Title I (compensatory education)	YES	YES	Students can participate in Public School Program		YES
ESEA Title II & III (Library Resources; Counseling & Testing)	YES	YES	Students can participate in Public School Program		YES
Bilingual Education Act—ESEA Title VII	YES	YES	Students can participate in Public School Program		YES
Ethnic Heritage—ESEA Title IX	YES	YES	YES	YES	YES
Nutrition Programs	YES	YES	YES	YES	YES
National Reading Program	YES	YES	YES	YES	YES
State:					
State Financing	NO	100%	NO	NO	95% or more of "basic need" (Foundation Program)
"Mini" 874	NO	NO	NO	NO	YES

Community Control

1. How Much Control Do Communities Have Over REAA Schools?

An advantage of the *REAAs* over the former *Alaska State Operated School System* is the increased amount of control a local community has of its schools. The *REAA* school board which has broad powers to direct the operation of the schools in its area is elected by the people in the *REAA* and should be responsive to their concerns.

The *REAA* board has the power to hire employees, including the superintendent, to make contracts, and to develop a philosophy of education which is compatible with the wishes of the communities in the area. The state, however, retains some control over school operations: The board's operation of schools is subject to the approval of the state *Commissioner of Education*. Land and buildings continue to be owned by the state.

In addition to the school board for the entire *REAA*, each community in the *REAA* with a school has an elected *Community School Committee*. This committee reviews and makes recommendations to the *REAA* school board on matters concerning curriculum and general school operations. It has no real power, but it may be given duties and responsibilities by the *REAA* school board.

Local communities have much more control over determining the kind of education their children receive through the *REAAs* than under the former system. The control is not as complete as that of a city or borough district board.

2. Are BIA Schools Under the Control of the Communities They Serve?

BIA schools are funded by the federal government and the Bureau has power over curriculum, hiring of teachers, academic standards, and student discipline. Each school does have an *advisory school board* which is composed of parents who usually are elected from the community. The board has no power but may make suggestions and recommendations to the BIA agency superintendent or the school's principal teacher. The *advisory school board* may be given important additional responsibilities by contracting with the BIA under one of the federal programs such as the *Indian Self-Determination and Education Assistance Act.*

3. How Much Impact On School Policy Can Parents Have In City and Borough Schools?

City and borough school districts have elected school boards which have the greatest degree of control available to the governing body of any type of school system in the state.

Borough school boards may establish *advisory school boards* and give them such duties as they choose. They have no legal powers.

Native parents in city and borough schools also can have a voice in school policy through participation in the parent committees formed under the federal programs such as *Johnson O'Malley, Indian Education Act, and Title I.*

4. How Do Native Parents Participate in the Federal Programs?

Many federal programs require overseeing parent committees. For *Title I* programs there must be a parent advisory council which is charged with the duty to advise the school administrator concerning the kinds of programs funded by *Title I.*

Under the *Indian Education Act*, parents are involved through the *Indian Parent Committee*. This committee has the power to approve or disapprove proposed projects. The group is also responsible for continued monitoring and evaluation of programs that are approved.

The *Johnson O'Malley Act* requires the creation of an *Indian Education Committee*. The committee develops an *education plan* which is submitted to BIA and is charged with responsibility for implementing and evaluating the plan which is adopted.

The federal *Bilingual Education Act* provides for a community advisory group composed of parents to aid in planning and evaluating proposed bilingual programs.

5. Can the Same People Serve On These Committees?

Some of the federally created committees may serve in more than one capacity. For example, the *Indian Education Committee* under *Johnson O'Malley* may be the same committee that is required under the *Indian Education Act*, thereby eliminating the need for two separate committees. If the school board is composed of a majority of Natives, there need not be an *Indian Education Committee* to apply for and receive *Johnson O'Malley* funds.

For the other school committee, if they call for elected members (and most do), there would have to be separate committees for each program although persons might be members of more than one committee.

6. Can An REAA, City or Borough School Board Serve As A Parent Committee?

Only *Johnson O'Malley* regulations clearly provide that no new parent committees need be created if the school board is composed of a majority of Natives. All the other federally required committees do not say anything

about this question. Because the various committees require the election of members and in most cases that they be parents of students who are involved in the programs, the school board simply could not declare itself as the parent committee. If, however, a school board member would also like to be a member of a particular committee and he or she meets the eligibility requirements (as a parent of an Indian student for example), the laws would not prevent his or her election.

Each of the parent committees, however, is designed as a check on the actions of the school administration. While some consolidation in a small community is desirable, or necessary, it might make harder the job of overseeing board decisions. Also, if there are enough available people, there may be value in involving many different people on the committees.

7. Can Independent (Private) Community Controlled Schools Be Effective In Achieving True Community Control?

Indian tribes have achieved a high degree of control over operations of schools such as Rough Rock on the Navajo Reservation and Busby School on the Northern Cheyenne Reservation. These communities and others which have contracted with the Bureau of Indian Affairs for management of their own schools control policies, hiring, curriculum, etc. However, because of the contract arrangement, they also share with BIA schools some of the difficulties of dealing with a bureaucracy that may be thousands of miles away. Answers to specific questions concerning what the school can or cannot do may be slow in coming. Much financial control of the school usually remains in the hands of the BIA. Funding for the school may have to come from a variety of sources—not just the federal government—in order for there to be enough money available for the kinds of programs the community feels are needed.

The Indian Self-Determination Act provides an important means of exercising Native control over schools. Again, it uses the contract arrangement to allow villages, and village and regional corporations to take over BIA schools. Non-profit corporations may also do so with the consent of the villages and village and regional corporations which are affected.

8. Can a Community With a BIA School Demand Service From the State If the BIA School Program Is Not Up to the Standards of REAA Schools?

The federal government has recognized its moral obligation to provide educational services to Alaska Natives where needed. This has led the state and Native communities to rely upon BIA schools in the many places they exist. The State of Alaska, through the school districts and *REAAs*, has a *legal* obligation to educate all children of the state. It is the intention of both the state and the BIA that BIA schools will eventually all be taken into districts and *REAAs* and their operations and finances will be under state law. Lack of funds made this impossible in the past.

The State of Alaska, therefore, would be responsible for supplementing BIA school programs if necessary to bring them up to state standards. For instance, if a BIA school has no bilingual program and all state schools do, the state should include the BIA students in such a program. Since the BIA school need not be there (in which case the state would have to provide the total educational program), the state has a duty to aid in whatever way necessary to provide all children of the state with an equal educational opportunity.

Bilingual Education

1. What is BILINGUAL EDUCATION?

Bilingual education may be defined as use of two languages for instruction in some part of the school curriculum. The study of the unique history and culture associated with students' ethnic background is "bicultural" education and is usually considered a part of *bilingual education*.

2. Where Do the Funds For the Operation of A Bilingual Program Come From?

The State of Alaska has a *bilingual education fund* which is used to finance the program which each school with more than eight students of limited English-speaking ability must operate. If these funds are not adequate, districts and *REAAs* must use basic operating funds to assure that bilingual programs are supplied where they are needed. The federal *Bilingual Education Act (ESEA Title VII)* is a source of supplemental financing.

3. Must There Be A Bilingual Program In Every School?

Alaska law provides that there must be a program in every school where there are at least eight students whose primary language is other than English. School districts in Alaska are encouraged to provide *bilingual education* for any number of students (even if less than eight), although the law does not specifically require it. The U.S. Supreme Court has also indicated that it is a violation of federal law not to provide some sort of aid to students whose primary language is not English, but bilingual education may not be the only acceptable means of helping those students.

4. May Funds From Other Programs Be Used For BILINGUAL EDUCATION?

Under Alaska law *bilingual education* is a basic part of school curriculum when it is needed. For this reason, programs which are for supplemental assistance such as *Johnson O'Malley* and *Title I* cannot be used for *bilingual education* under ordinary circumstances.

Teachers

1. Who Is Eligible To Be Hired As A Teacher By the School Board?

Only those with valid teaching certificates may be hired as teachers by district or *REAA* schools. Requirements for issuance of a certificate include a Bachelor's degree from an accredited college and completion of a teacher education program. In some circumstances such as an emergency or if the teaching position is in an area of specialization for which there is no formal training, a letter of authorization will be issued and is sufficient to allow the individual to be employed for one year. Such authorization is often used to permit uncertified persons to teach Native language and culture. Also, persons without certificates can be hired as teacher aides.

2. How Does A Teacher Become "Tenured"?

If a teacher has a teaching certificate and has been employed as a teacher in the same district for two continuous years and is re-employed for a third year, the teacher is "tenured" meaning he or she has a more or less permanent job.

3. Can A School Board Refuse To Rehire A Non-tenured Teacher For the Next School Year?

A district or *REAA* can refuse to rehire a non-tenured teacher for any reason which it determines to be adequate. However, at the request of the non-tenured teacher, a written statement of the reason of non-retention must be furnished and the teacher must be given an opportunity for a fair hearing.

4. For What Reasons May A Teacher Be Dismissed?

Tenured and non-tenured teachers may be dismissed only when the school board determines that they are guilty of one of the following:

a) "Incompetency"—which is the inability to perform a teacher's duties satisfactorily.

b) "Immorality"—which is the commission of an act which constitutes a crime of moral turpitude (such as stealing from the school).

c) Substantial noncompliance with the school laws of the state, the district, the superintendent, or the *Department of Education*.

A teacher may be suspended with pay while the charges are being investigated. The school board's determination is subject to review by a court.

5. When May A School Board Refuse To Rehire A Tenured Teacher?

The only reasons a district may refuse to rehire a tenured teacher are the reasons given above for dismissal plus one additional reason: A necessary reduction of staff because of a decrease in school attendance.

6. What Procedure Must A School Board or Superintendent Follow When A Tenured Teacher Is Dismissed or Not Rehired?

A district or *REAA* must give the teacher a written detailed statement of the reasons for the action. If within 15 days of receiving that statement, the teacher requests a hearing before the school board one must be provided. The teacher can require that the hearing be public or private, that it be under oath, and that he or she have the right to cross-examine those who have made the charges and have the assistance of counsel. A record of hearing by tape or transcript must be kept. The decision of the board is to be by majority vote; and it must be expressed in a written statement which includes specific findings of fact and conclusions of law. The teacher must be notified of the decision within 10 days.

7. Do Non-tenured Teachers Have the Right To A Hearing?

A non-tenured teacher who is not retained at the end of the school year does not have the right to a formal hearing. Such a teacher has recourse only to grievance procedures which are within the discretion of the employer.

A non-tenured teacher dismissed during the school year does have the right to a hearing if one is requested. Even though the Alaska statutes do not provide for such a hearing, the Alaska Supreme Court has ruled that one is required. At the hearing the teacher can call witnesses and, in general, put forth his or her side of the story. This "fair hearing" must take place *before* the teacher is dismissed unless there is an extraordinary reason for not doing so.

8. Who Negotiates With Teachers In Regard To Salaries, Duties, Etc.?

Individual city and borough school districts negotiate directly with teachers or their bargaining agent. *REAA* school boards jointly negotiate as a team with the teachers or bargaining agent unless they choose not to participate on the "team". Each *REAA* board has by formal resolution, decided not to join and negotiate as a "team."

9. Who Is the Bargaining Agent For the Teachers?

If a majority of the *certified employees* in a district have chosen a union or similar organization such as the National Education Association (NEA-Alaska), the school board is to recognize that organization as the bargaining agent for all the *certified* staff. The board can request an affidavit from the union that claims to represent the teachers in order to verify the fact that it does truly represent a majority of the staff. If the teachers have not chosen a bargaining agent (union), a request by 25% of them for an election requires the school board to hold an election by secret ballot. The results of

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the balloting are binding for one year.

10. What Happens If the Teachers And the School Board Cannot Agree On A Contract?

If either side asserts that the parties cannot agree, the dispute is submitted to mediation. The mediator (like a judge) is to be from the United States Federal Mediation and Conciliation Service. He or she prepares a report putting all the agreed items in writing. If the parties still cannot agree, the governor can appoint an advisory arbitrator to review the issue and make recommendations for a solution.

11. How Does the Teachers' Retirement System Work?

The retirement system is a pension program funded by teacher and employer contributions. The teacher contributes 7% of his or her salary through payroll deductions. If a teacher has taught outside the public school system (with, for example, the Bureau of Indian Affairs), those years of service may be credited if he or she contributes an additional amount (roughly equal to what would have been paid into the fund by the teacher). The employer school district (or *Department of Education* for *REAAs*) adds an amount necessary to provide the benefits of the program.

The fund is managed by the Teachers' Retirement Board and the Department of Administration. This board serves as a policy making and appeal body. An administrator takes care of daily management.

12. When Are Teachers Eligible To Retire?

If a teacher has been a member of the retirement program for a minimum of eight years and has reached the age of 55, *or* has completed 15 years of creditable service, has been a member of the program the last five years, and has reached the age of 55, *or* has at least 20 years of membership service whatever his age, he or she is eligible for normal retirement.

13. How Much Money Do Teachers Receive Under the Pension Plan?

For normal retirement a teacher is entitled to 2% of his average salary (usually during the last three years) multiplied by the total number of years of "creditable" service. For example, if a teacher's salary had averaged $10,000 per year and he had been teaching for 20 years, his annual pension would be $4,000.00. In addition, Alaska law provides for a cost of living increase for teachers who reside in Alaska during retirement.

Students

1. When May A School Age Child Be Suspended or Denied Admission To Public School?

A child cannot be suspended from the right to attend school without a compelling reason for that suspension. Alaska law provides that a pupil may be suspended or denied admission for reasons such as: "continued willful disobedience," "behavior which is inimicable to the welfare, safety, or morals of other pupils," "a physical or mental condition which . . . will render the child unable to reasonably benefit from the available programs," "a physical or mental condition . . . inimicable to the welfare of other pupils." These guidelines are, of course, quite broad and it is not clear what kinds of conduct would be sufficient to suspend a child. The Alaska Supreme Court has, for example, concluded that hair length is not in itself a basis for suspension under the law as stated.

2. What Procedures Must Be Followed To Suspend A Student?

Education has been recognized as a property right. Thus, it is protected by the U.S Constitution which prohibits the taking of "life, liberty or property" without due process of law. Similar protections are in the Alaska Constitution. The U.S. Supreme Court recently has indicated what due process of law means for suspension and expulsion. If the suspension is for 10 days or less the student must first be given oral or written notice of the charges against him and an opportunity to present his or her side of the story. Except under unusual circumstances, for short term suspensions it is not necessary that the student be given the right to cross-examine the witnesses against him, the right to have an attorney or other representative present, or to call witness in his or her own behalf. For expulsion or suspensions greater than 10 days or a denial of admission, those rights might be necessary. Since expulsion is much more serious than suspension, more care must be taken that the decision is fair and just. Therefore, an attorney, the right to call witnesses, and even cross-examination might be appropriate. Alaska regulations provide for appeal of any suspension decision to the school board.

The *Department of Education* requires each district to develop policies in the area of student rights. These policies must be in accordance with law and are subject to review by the department. In addition, these policies must be publicly available and students in all grades are to be instructed about their rights and responsibilities.

The Alaska *Department of Education* has published a set of "Guidelines on Student Rights and Responsibilities" to enable school boards to develop coherent, acceptable guidelines for student behavior. The booklet gives examples and offers some legal analysis of issues related to student rights.

Federal regulations provide rights to notice, hearing, an attorney, to call witnesses, review and appeal and other rights for students who are disciplined for violating school regulations which might result in suspension, expulsion or transfer. These rights apply in all BIA schools and in any schools funded under contract with BIA, such as under the *Indian Self-Determination and Education Assistance Act* contract or *Johnson O'Malley Act*.

3. Who Suspends And Expels Students?

Principals and superintendents have the power to suspend and reinstate pupils. In district schools only the governing school board can expel or deny admission to a student. (Although the regulations have not been promulgated, it is expected that the *REAA* boards will be included in this provision.)

4. When Must A Student Be Readmitted Following Suspension?

When the "cause" of a student's suspension has been remedied, the student must be re-admitted. If, for example, the mental or physical disability is overcome, the student is to be allowed to return to school. Of course, determining when the "cause" of a disciplinary suspension has been remedied is not always easy.

5. Besides Suspensions, What Other Areas Of Student Rights Should A District Be Concerned About?

a) Freedom of Speech and Expression—Students are free to express unpopular opinions and to express their individuality in dress. Of course, creating disorder is not included in freedom of speech. Nor is obscenity or slander protected. The difficulty, however, is in formulating an acceptable definition of those terms.

b) Publications—The school may exercise a greater degree of control over written material that is an integral part of the curriculum than over publications that are not. If guidelines are carefully drawn and they represent the current moral judgment of the community, then "vulgar" or "obscene" material may be prohibited.

c) Marriage and Pregnancy—Married or pregnant students cannot be denied admission to school solely for that reason.

d) Records—Students and parents have a right to examine any and all records directly related to the pupil and other persons are restricted in their ability to see such records.

e) Searches—Search of students belongings is not an unlimited right of school officials.

These above rights and others are carefully protected and are spelled out in federal regulations which apply to BIA schools and all schools which have contracts with the BIA (for example, *JOM*) for educating Native children.

6. Can Students Participate In School Policy Making?

The Alaska Legislature has expressed an intent that young people be given an opportunity to become involved in school matters. A school board may create a youth involvement committee to select students 17 to 22 years of age to participate on district committees and to work with the school board or administrator for a year.

Administration

1. Are School Board Members Subject To the Campaign Spending Act And the Conflict Of Interest Law?

The campaign spending act (which provides for financial disclosure for candidates) and the conflict of interest law (which prohibits public officials from using their positions to help their own private business) apply to "public officials" and "municipal officers." Municipal officer is defined as a "borough or city mayor, borough assemblyman, councilman, school board member . . ." Clearly then, city and borough school board members are subject to these laws.

The Attorney General of Alaska has decided that an *REAA* is not a municipality and *REAA* school board members are not municipal officers. Therefore, the reference to "school board members" refers only to city and borough board members. While the *REAAs* are not municipalities, the purposes behind the campaign and the conflict of interest laws would be served by applying them to *REAA* school board members just as to borough school board members. Until a court decides otherwise, however, the attorney general's opinion stands.

2. Are *REAA* Board Members Subject To ANY Conflict Of Interest Laws?

There is a special provision that any board member with a personal monetary interest in a contract with the *REAA* is disqualified from voting on any issue connected with that contract unless all the other board members, knowing of this interest, permit him to vote.

3. Can Cities And Boroughs "Demunicipalize" And Join An *REAA*?

Cities in the unorganized borough can choose to dissolve and would then be included in an *REAA*. A city might want to do this if it felt that the financial rewards (100% state financing of school costs) outweigh the other advantages of having local city government.

4. Can Communities In the Unorganized Borough Decide To Form Cities and Boroughs?

The statutes explicitly provide that they can, and to do so is consistent with the intent of Alaska's constitution and statutes. The law also allows a local government to assist financially an *REAA* that decides to become a city or borough school district. As discussed in the section on funding, there are advantages and disadvantages in incorporating as a borough or city.

5. Is There Any Provision For Cooperation Among *REAA*, BIA, And District Schools?

REAA and district schools can cooperate in establishing regional service centers, creating special services for exceptional children and developing resource centers for media services, bilingual-bicultural material, staff training, diagnostic services, etc. In addition, all three school systems can agree to cooperate for the "efficient or economical" operation of educational services. For example, in establishing boarding or tuition arrangements, or exchanging pupils and teachers, the school systems may agree to aid one another. (This law refers to state operated schools which implies *REAAs*.) *REAAs* may wish to share bookkeeping, payroll, purchasing and other administrative services.

6. What Is the Relationship Between the School Boards And the Legislative Bodies Of Cities And Boroughs?

The school board has some powers independent of the legislative bodies (city council or borough assembly), although the legislative bodies clearly have ultimate control of many important matters.

A borough assembly or city council can require that all school money be deposited in a centralized treasury. With the school board's consent, it can require that there be a centralized accounting system. It approves the amount of the district budget, decides where new school buildings will be built, and provides for major construction and repair of buildings. The school board is responsible for design of schools, but their choice of architect is subject to approval by the borough assembly or city council. The school board has responsibility for employees, the purchase of supplies, and building maintenance.

Legal Liability

1. Can School Board Members Be Held Financially Responsible For the Actions Of the Board?

Alaska law provides that a member of a borough or city school board cannot be held personally liable when acting within the scope of his authority. Of course school board members, like other citizens, may be held responsible for acts which do not fall within their duties as members of the school board. As the law is presently written, *REAA* board members are not mentioned, but there would be no reason to grant immunity to city but not *REAA* school board members. They should be treated as board members of districts.

Being free from liability does not mean that school board members cannot be sued. But if they are sued they will not be held personally liable if they prove they were acting within their duties. Suits against school boards are usually defended by the district attorney or, in the case of an *REAA*, by the state attorney general.

2. For What Kinds Of Actions Can School Boards (City, Borough And *REAA*) Be Held Responsible?

Neither the State of Alaska nor any school boards are immune from legal liability arising out of accidents (other than those caused by patrol members) or suits for breach of contract, and other similar actions. The Alaska Supreme Court has determined, for example, that a borough (but not an individual board member) is financially responsible if it is found that the driver of a school bus was not acting with the correct amount of care, thereby causing an accident.

REAA school boards are given the power "to sue and be sued" and are in that respect in a position similar to cities and boroughs. Therefore *REAA* boards (though not the individual members), can be found financially responsible for accidents, breaches of contract, etc.

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Definitions

Note: This section includes definitions of words in *italics* appearing on the preceding pages.

Average Daily Membership (ADM). This is a way of counting students in a school for the purpose of the *foundation program*. The number of pupils enrolled in a school each day of the year is added up and then divided by the number of school days to get the ADM. Students enrolled in *vocational* and *special education* programs for less than full days are counted differently; ADM is converted into a figure indicating the number of full time equivalent students.

By finding ADM on tables in the statutes, the number of *instructional units* for a school can be determined. The *instructional unit value* ($27,500 for 1977-78) is multiplied by adjusting factors in the statute to find the *instructional unit allotment*. The number of *instructional units* is then multiplied by the *instructional unit allotment* to determine the district's *basic need*. *Basic need* multiplied by an *equalized percentage* then gives the amount of *foundation program* aid a district gets. A.S. Sec 14.17.250(1); 14.17.031-.056. (See discussion of *foundation program* on p. 3.)

Advisory School Board. This is a group of parents in a Bureau of Indian Affairs school who can make suggestions and recommendations to the agency superintendent or principal teacher of the school. The advisory school board can be given additional powers by agreement with the BIA to control curriculum, approve hiring of teachers and participate more directly in the school's operation.

Alaska Native Claims Settlement Act (ANCSA). This act was passed by Congress to settle the land claims of Alaska Natives. It provides for 40 million acres of land to be allocated to Native corporations along with $465 million from the federal government and $500 million from oil revenues collected by the State of Alaska. The act divides Alaska into 12 Native regions, with a corporation for each. Alaska Natives, by being enrolled in one of the regions, become shareholders in the regional corporation and usually in a village corporation. 43 U.S.C. Sec. 1601 et. seq. Both types of corporations are eligible for assistance under the *Indian Self Determination and Education Assistance Act*.

Alaska Unorganized Borough School District (AUBSD). The AUBSD was charged under *Senate Bill 35* with the administration of schools in the unorganized borough from July 1, 1975 to June 30, 1976, following abolition of the *Alaska State Operated School System* and prior to *REAAs* becoming operative.

AUBSD. See *Alaska Unorganized Borough School District.*

Alaska State Operated School System. The state agency which was responsible for education in the unorganized borough before *Senate Bill 35* was passed (July 1, 1971 - June 30, 1975). *ASOSS* was administered from a central office in Anchorage and directed by a nine person board of directors appointed by the Governor who were charged with the duties of hiring teachers, establishing policies, creating or discontinuing schools, etc.

A.S. Alaska Statutes. This is where laws passed by the state legislature are compiled and numbered.

ASOSS. See *Alaska State Operated School System.*

Basic Need. For the purpose of the *foundation program* and in figuring state support of *REAAs*, the basic need of each city or borough school district and *REAA* is calculated by multiplying the *instructional unit allotment* (the number of *instructional units* adjusted for costs according to location of the district) times the *base instructional unit* ($27,500 for 1977-78) A.S. Sec. 14.17.021(b); 14.08.121(a). *Basic need* does not represent actual costs for providing an education but is set by the legislature from time to time as representing roughly those costs. Basic need is multiplied by an *equalized percentage* to determine the actual amount in dollars each school district receives under the *foundation program.* (See discussion of *foundation program* on p.3.)

Bilingual Education. This means instruction in any subject carried out in two languages, usually English and in a language other than English which is the first language of the children being taught. Study of history and culture related to a student's ethnic heritage is often called "bicultural education" and is included as a part of bilingual education.

Bilingual Education Act (Federal). See *Elementary and Secondary Education Act, Title VII.*

Bilingual Education Fund (State). The State of Alaska requires that city, borough, and *REAA* schools provide a bilingual-bicultural education in each school attended by at least eight students of limited English speaking ability or whose primary language is other than English. Any school with less than eight such students may provide *bilingual education*. A.S. Sec. 14.30.400.

Board of Education (State). The seven member State Board of Education was established by the Alaska Legislature to develop policies and provide direction for education in the state. Members are appointed by the Governor and approved by the legislature. They appoint

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a *commissioner of education* and are superior to the State *Department of Education*. They also serve as the state board for vocational education. A.S. Sec. 14.07.075-.170.

Certified Employees. All teachers in Alaska schools are required to obtain a teaching certificate which certifies that they have the necessary qualifications. In addition to teachers, administrative and supervisory personnel (such as principals and superintendents) are considered certificated employees.

CFR. This is an abbreviation for the Code of Federal Regulations. It is a set of books containing all regulations necessary for carrying out federal laws and programs.

Commissioner of Education. The Alaska state commissioner of education is appointed by the State Board of Education for a term of up to five years. He or she runs the State Department of Education. The commissioner also has approval authority over decisions of *REAAs* established under *Senate Bill 35*.

There is also a federal commissioner of education who heads the *Office of Education* in the Department of Health, Education and Welfare.

Community School Committee. A committee established under *Senate Bill 35* operates in each community with an *REAA* school. If there are less than 251 pupils in the school there are three committee members; if there are 251 or more pupils there are five committee members. The committee members are chosen by and from residents of the community who are U.S. citizens over the age of 18. Committee members are elected on the dates set aside for municipal elections and are elected for staggered 3 year terms. (The initial committee, however, is composed of members with terms of one, two, or three years in order for the staggered terms to be established.) The committee's duties are to review and make recommendations to the *REAA* board concerning curriculum, programs, and general school operations. It has no powers and its decisions are advisory only. However, the *REAA* board may delegate powers and responsibilities to the committee. A.S. Sec. 14.14.170.

Department of Education. The Department of Education is an Alaska state agency exercising general supervision over all the public schools for the state except the University of Alaska. The department acts as an advisory body, a clearinghouse for federal programs, and a general policy-setting agency for education in Alaska. The department also issues regulations which carry out the *Alaska Statutes* concerning teachers, students, etc.

DOE. See *Department of Education.*

Education Plan. Under the *Johnson O'Malley Act*, funding is provided to education agencies and other groups only after an "education plan" is approved by the *Indian Education Committee* and only if it contains educational goals and objectives which address the needs of Indian students. 25 U.S.C. Sec. 455, 25 CFR 273.18.

Elementary and Secondary Education Act (ESEA). This federal law provides monies to school districts, *REAAs* and the state for various purposes set out in the act. Listed here are several parts of the act which affect Native education.

Title I—This section provides money to *local education agencies* for the education of children of low-income families which supplements the efforts of a district or *REAA*. The amount of the grant is based on the number of families within the district with an income below an adequate level, plus ⅔ of the number of families on Aid to Dependent Children (welfare), plus the number of families with children in institutions for delinquent or neglected children. "Target schools" (schools with high concentrations of such children) within a school district are eligible for the grants. Any child in the target school, if educationally deprived, is eligible for the program regardless of his own family's income. The school district must be providing a "comparable" education to all children without regard to Title I funds: The funds cannot be used as part of general funding. They may be used only for supplemental programs designed to aid children who are educationally disadvantaged. Students in private schools within the target school's boundaries must be allowed to participate in the programs. Title I grants are available to BIA schools. Title I requires the creation of a *parent advisory council* for each participating school. The parent council has the responsibility to advise the school administration in planning, administrating and evaluating the Title I program. 20 U.S.C. Sec. 241c. (See also discussion on p. 6.)

Title II—This part of the act provides grants for library resources, textbooks and other instructional materials. BIA and private schools are eligible for funds under this program. 20 U.S.C. Sec. 821 et. seq.

Title III—This title provides supplementary aid to school districts and *REAAs* for education centers and services, to develop new programs, and to support guidance counseling and testing programs. 20 U.S.C. Sec. 841 et. seq.

Title VI—This provides funds for programs and projects for educating children who require *special education* because of physical or emotional handicaps. These funds are available to the state and are allocated to *local education agencies* under proposals submitted to the *department of education*. 20 U.S.C. Sec. 1401 et. seq.

Title VII—This act authorizes federal financial assistance for *bilingual education* to school districts with students of limited English speaking ability. BIA schools and *Indian tribes* and organizations also are eligible for assistance under the provisions of the act. Grants are available for a variety of purposes including teacher training, materials, technical assistance and planning. Schools with programs under Title VII have a "community advisory group" composed of parents to aid in planning and evaluating proposed bilingual

programs. 20 U.S.C. Sec. 880b and 880b-8.

Title IX—This program funds ethnic heritage studies. Under it the government provides grants to public and non-profit private educational agencies to plan, implement, and develop curriculum, and to train personnel for programs designed to foster a greater understanding of students' cultural heritage. 20 U.S.C. Sec. 900.

Equalized Percentage. In the state *foundation program*, the equalized percentage allows poor school districts (those with less valuable taxable property) to get a greater amount of state funds. For an average school district the state supplies 95% of the *basic need*; for a school district with less valuable property the state's share will be higher. The percentage of state contribution is calculated by the formula $P_i = 1 - (1-K)\left(\frac{V_i}{V_s}\right)$ where

P_i is the equalized percentage,
K is 95%
V_i is the value of the taxable real property in the districts divided by *ADM*,
V_s is the average for all districts in the state.

(See discussion of how the *foundation program* works on p. 3.)

Foundation Program. The Public School Foundation Program is the means used by the State of Alaska to fund basic need of city and borough school districts. *REAAs* are not funded under this program but state support for them is figured in a similar manner. (See p. 3.) The foundation account funds a minimum of 95% of a district school's *basic need*—an amount calculated by taking into account size of schools, remoteness, cost of operation. The actual percentage is an *equalized percentage* based on relative wealth of the district. A.S. Sec. 14.17.010 et. seq. (See discussion of how the *foundation program* works on p. 3.)

Hootch v. Alaska State Operated School System. This is the name of a lawsuit brought against *ASOSS* by Native school children from several rural Alaska villages asking the court to order the state to provide them with high schools in their own home communities. The state supreme court has ruled that establishment of local high schools is not required by the part of the state constitution that says the state must provide schools "open to all children." 536 P. 2d 793 (1975). A second claim has not been decided yet. It is that the state and federal constitutions guarantee equal protection of the laws to all citizens and that failure to provide local high schools in Native villages amounts to racial discrimination. Since the suit was filed the state has adopted regulations assuring every child a right to attend high school in his or her own community if there is an elementary school there unless the community asks that there be no such school. Also, the legislature has authorized selling bonds to raise money for building rural schools.

Impact Aid (P.L. 874 and 815). The federal government provides assistance to local public school districts for general operating expenses (P.L. 81-874) and for the construction of school facilities (P.L. 81-815) in areas where enrollments are increased by federal activities or by the existence of tax exempt federal land. School districts enrolling Indian and Alaska Native students qualify for Impact Aid funds because Indian reservations and land held in trust by the federal government are exempt from state property taxes. Children whose parents live or work on federal property qualify the district for aid. Alaska has received a preferential rate for state run schools in the past. That rate will phase out over a five year period (1976-1981) and applies only to *REAA* schools. 20 U.S.C. Secs. 236-41; 20 U.S.C. Secs. 631-47.

There is also a state impact aid program known as "*Mini-874.*" (See discussion on p. 4.)

Indian Education Act of 1972 (P.L. 92-318). This act provides money for aiding *local education agencies* educating Indian and Alaska Native children, for special programs and projects which improve educational opportunities for such children, and for Indian and Native adult education programs. 20 U.S.C. Sec. 241a et. seq., 887c, 1211, and 1221f. (See discussion of *Indian Education Act* on p. 6.)

Indian Education Committee. When a school district or Indian group contracts for *Johnson O'Malley* and the local school board is not composed of a majority of Indians, an Indian Education Committee must be created. This group is elected from the parents of Indian students and has the authority to approve or disapprove of an *education plan* submitted by a *local education agency*. The committee has the duty of planning, implementing and evaluating the program which is adopted. The committee may operate the program itself if it is incorporated. The committee may be the *Indian Parent Committee* created under the *Indian Education Act*. 25 U.S.C. Sec. 456; 25 CFR part 273.

Indian Parent Committee. Applications under the *Indian Education Act* will be funded only if they are developed in consultation with the Indian Parent Committee and approved by the committee. The committee members are to be chosen by parents of Indian children, teachers, and if the project involves a secondary school, secondary school students. The parent committee also assists in monitoring, implementing and evaluating programs under the act. 20 U.S.C. Sec 241dd; 45 CFR Sec. 186.1 et. seq.

Indian Self-Determination and Education Assistance Act. This act allows Indian tribes and organizations, including villages, village and regional corporations under *ANCSA*, and non-profit Native organizations to contract to take over BIA services. Grants are also available to help villages and village and regional corporations to be prepared to run their own programs. Some school construction funds also are provided by the act. Several important changes in the *Johnson O'Malley Act* were made by Title II of this law. (See discussion of *Indian Self*

Determination and Education Assistance Act on p. 5.)

Indian Tribe. For purposes of the *Johnson O'Malley Act* and the *Indian Self-Determination and Education Assistance Act*, an Indian tribe includes any Indian tribe, band, nation, rancheria, pueblo, colony, or community including any Alaskan Native village or regional or village corporation under the *Alaska Native Claims Settlement Act*. This definition does not include regional non-profit Native corporations and associations or the *Alaska Federation of Natives (AFN)*. But these Native groups and others can contract to furnish services under *Johnson O'Malley* if they are incorporated. Any Indian-controlled entity can contract under the *Indian Self Determination Act* if all "tribal groups" (villages and village and regional corporations) who are affected consent.

Instructional Unit. In figuring the amount of money a school district gets under the *foundation program* or an *REAA* gets in state support, it is necessary to determine how many instructional units the district or *REAA* is allowed for the schools in it. This is done by looking at the table in the statutes which lists numbers of units according to numbers of students each school has in *average daily membership (ADM)* A.S. 14.17.041. Generally, the larger the *ADM*, the more units, but districts with *ADM* over 1,000 get fewer units for their larger schools because it is cheaper for them to operate than it is for small schools. More units are allowed for *vocational* and *special education* students because costs of those programs are high.

The total of allowable instructional units is the sum of units for all schools in a district or *REAA*, plus units allowed for *vocational* and *special education* students, plus units for students in the district's or *REAA*'s correspondence study program (if there are 5 or more students in it).

The total number of instructional units is multiplied by a factor to adjust for the difference in costs of operating schools in more remote districts to get the *instructional unit allotment*. A.S. Sec. 14.17.051. This gives the amount of *basic need*. This then is multiplied by the *base instructional unit* ($27,500 in 1977-78) to get *basic need*. A.S. Sec. 14.17.051 (b).

To get the dollar amount of *foundation program* aid, *basic need* must be multiplied by an *equalized percentage*. (See discussion of *foundation program* on p. 3.)

Instructional Unit Allotment. For purposes of calculating entitlements under the *foundation program* and state support of *REAAs*, the *base instructional unit*—currently set by the legislature at $27,500 for 1977-1978—is multiplied by a factor to adjust for geographic differences in school costs to get the instructional unit allotment. A.S. Sec. 14.17.051. The adjusting factor ranges from 103.75% for Sitka to 133.75% for the North Slope. The adjusted instructional unit value can be increased by another 5% if the school district or *REAA* does not have access to Anchorage, Ketchikan or Fairbanks by road, railroad, or the Alaska State Ferry System.

Thus, the North Slope Borough School District receives an *instructional unit allotment* which is 133.75% plus an additional 5% (compounded) or 140.4375%, of the *instructional unit value*. The allotment is multiplied by the number of *instructional units* in a district or *REAA* to get *basic need*.

Johnson O'Malley Act (JOM). Passed in 1934, amended in 1936 and 1975, this act authorizes the Secretary of the Interior to provide agricultural, educational, health, and welfare services to Indian people by contracting with states, agencies, corporations and institutions. Johnson O'Malley funds have been almost exclusively used for educational programs. 20 U.S.C. Sec. 452 et. seq. (See discussion of *Johnson O'Malley Act* on p. 5.)

Local Education Agency (LEA). For purposes of federal programs, a local education agency is a subdivision of the state which contains public elementary and secondary educational institutions providing educational services. An *LEA* is controlled by a duly elected board, commission, or assembly. School districts and *REAAs* are local education agencies. 25 CFR Sec. 273.2.

Mini 874. This Alaska state program is similar to the federal *Impact Aid* program (P.L. 874). It provides state funds to school districts that provide education to a student whose parents work and/or live on state tax exempt property. A.S. Sec. 14.17.215. (See discussion of *Mini 874* on p. 4.)

National Reading Improvement Program. This federal act provides funds for non-profit educational institutions to aid elementary and preschool reading programs. In addition, special emphasis grants are available to *local education agencies* to fund programs designed to improve reading levels in elementary schools, to utilize public television, and to promote reading academies. 20 U.S.C. Sec. 1901 et. seq.

Nutrition Programs. The National School Lunch Program is a federal program which provides free or reduced-price lunches to needy children. Schools which participate are reimbursed at a rate of 12¢ for each student who takes part in the program (including those who pay a full price for lunch). In addition free lunches are reimbursed at 64¢ each, reduced-price lunches at 54¢. A state become eligible for reimbursement and donated food commodities by filing a state plan with the Department of Agriculture. All public and non-profit private schools become eligible for participation by making written application to the appropriate state agency. 42 U.S.C. Sec. 1751 et. seq.

The School Breakfast Program provides federal funds for pilot breakfast programs designed to improve the diets of children who arrive at school without breakfast

or who must travel long distances to school. Participating schools are reimbursed in a manner similar to the School Lunch Program. 42 U.S.C. Sec. 1773.

The Milk Program provides federal financial assistance to all participating students of public and non-profit private schools. 42 U.S.C. Sec. 1772.

The State of Alaska has additional programs to assist in furnishing good nutrition to school children. Under state law, schools participating in the programs should offer at least one meal a day without charge to all students in attendance. A.S. Sec. 14.52.050.

Office of Education. This is the office within the United States Department of Health, Education, and Welfare which is responsible for the administration of federal education programs. A commissioner of education heads the department and he is authorized by Congress to make grants under the various federal programs.

Previously Private Schools. Under the *Johnson O'Malley Act* and the *Indian Self-Determination and Education Assistance Act*, a previously private school is one now operated primarily for Indian students from age 3 through grade 12 which is controlled, sanctioned, or chartered by the governing body of an *Indian tribe* (Native village or village or regional corporation). Previously private schools are eligible for a specific percentage of the funds available under the *Indian Self Determination and Education Assistance Act* for services and construction. Former denominational schools qualify as previously private schools, but former BIA schools do not. 25 CFR Sec. 274.

Regional Education Attendance Area (REAA). Under *Senate Bill 35*, an *REAA* is an educational service area in the unorganized borough which may include a military reservation and which contains one or more public schools of grade levels K-12 operated under the management and control of a single regional school board. An *REAA* is not a municipality and ownership of land and buildings used in *REAA* schools remains in the State of Alaska. BIA schools are included in *REAA* boundaries but are not under the control of the *REAA* school board. A.S. Sec. 14.08.011 et. seq. (See discussion of *REAAs* on p. 1.)

Required Local Effort. This is the amount of money a city or borough school district must raise in local revenues (taxes, etc.) under the *foundation program*. It is the difference between *basic need* and the amount due from the state under the *foundation program*. The amount due from the state will be reduced in proportion to the district's failure to fulfill its obligation to make the required local effort. A.S. Sec. 14.17.071.

S.B. 35. See *Senate Bill 35.*

Senate Bill 35. Senate Bill 35 was passed by the Alaska Legislature in 1975. It dissolved the *Alaska State Operated School System* and provided for the creation of *Regional Education Attendance Areas (REAAs)* in the unorganized borough. The boundaries of the *REAA* follow regional boundaries under the *Alaska Native Claims Settlement Act* in part and reflect cultural and geographic factors. Each *REAA* has an elected school board whose powers include fiscal policy decisions and the ability to contract with agencies of the state, appoint employees, and adopt regulations. Subject to the approval of the state commissioner of education, the *REAA* board has the power to combine, discontinue, construct, or rehabilitate existing schools. A.S. 14.08. (See discussion of *REAAs* on p. 1.)

Special Education. Alaska law requires each *REAA* and borough or city school district to provide special services for exceptional children if there are five or more such children in the district. If there are less than five students, school districts may cooperate to provide special classes and exceptional children may be transferred to other districts.

Exceptional children are those who are mentally retarded, physically handicapped, emotionally handicapped, and those with learning disabilities. Children who are especially gifted in intellect or creative talent are also classified as exceptional children. Special services means whatever is necessary to enable the child to fulfill his learning potential and includes items such as special books, equipment, teaching methods, and transportation. The state provides a higher than usual level of funding under the *foundation program* to accomplish this purpose. A.S. Sec. 14.30.186, 14.17.041.(d).

Title I See *Elementary and Secondary Education Act*

Title II See *Elementary and Secondary Education Act*

Title III See *Elementary and Secondary Education Act*

Title VI See *Elementary and Secondary Education Act*

Title VII See *Elementary and Secondary Education Act*

Title IX See *Elementary and Secondary Education Act.* Title IX also refers to the portion of the federal Education Amendments of 1972 which prohibits discrimination based on sex.

Vocational Education. Federal funds for vocational education are available to state education agencies on a matching basis. Included in vocational education are home economics and trade classes. In addition, federal financial assistance is available for work-study programs. The State of Alaska provides additional funds for vocational education under the school *foundation programs* for city and borough schools, and in its direct funding of *REAAs*. A.S. Sec. 14.35.00 et. seq.; 14.17.041(c); 14.08.121(a).